IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO.10258 of 2005

Between:

Chandapuram Ramulu S/o.Late Bagaiah, 50 years,
R/o.Village, Rajampet, Mandal, Biknoor District, Nizamabad.

...PETITIONER

AND

1. The Collector, Nizamabad District.
2. The Joint Collector, Nizamabad District.
3. The Land Acquisition Officer-cum-Revenue Divisional Officer, Kama Reddy District, Nizamabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more preferably a writ of Mandamus declaring that the notification issued under Section
4 (1) of the Land Acquisition Act in Proceedings No.A4/252/05 dated 04.03.2005 as illegal, bad, arbitrary and in violation of principles of natural justice and set aside in the interest of justice.

Counsel for the Petitioner: MR.S.BHOOMA GOUD

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court at the admission stage made the following:

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO.10258 of 2005

ORDER:

This Writ Petition is filed by the petitioner to declare the notification dated 04.03.2005 issued by the respondents under Section 4 (1) of the Land Acquisition Act, 1894 ('the Act' for brevity) in proceedings No.A4/252/05 as illegal, bad and arbitrary.

The grievance of the petitioner is that himself along with his three brothers are the owners and possessors of the land admeasuring Acs.3.12 gts in Survey No.82 situated at Rajampet Village in Biknoor Mandal of Nizamabad District and they are cultivating the land by obtaining loan from Primary Agriculture Cooperative Credit Society (PACCS), Rajampet Branch. While so, a notification under Section 4 (1) of the Act was issued by the respondents to acquire the land of an extent of 0.04 gts in Survey No.82/3, dispensing with the enquiry under Section 5-A of the Act and a

declaration under Section 6 of the Act invoking Section 17 (4) of the Act to wit for burial ground. It is made clear that possession of the land will be taken after issuance of notice under Section 9 (1) of the Act with regard to the other enquiry. The petitioner has raised several grounds in the Writ Petition that the respondents have not conducted initial enquiry and there are residential houses, Hanuman Temple and one Sai Baba Temple under construction in the above said land. Therefore, the land acquisition proceedings were not issued in the interest of the public. He further submitted that they obtained loan from PACCS on the property, which is under land acquisition proceedings, at the instance of the persons belonging to Mudiraj Caste. When the persons belonging to Mudiraj Community tried to grab the above said land, acquisition proceedings were issued and a suit was also pending in O.S.No.160 of 2004 at Kamareddy Court against them. Therefore, the said land is not suitable for earmarking as burial ground.

The respondents, on receipt of the notice, filed a counter-affidavit and denied the allegations made by the petitioner in the Writ Petition. In para 6, it is categorically mentioned that already there is a burial ground existing from the times immemorial and also denied about obtaining loan from the PACCS by the petitioner and submitted that the land is not going to be acquired for the purpose of providing burial ground to a particular community, i.e., Mudiraj Caste. In view of the above, they dispensed with the initial enquiry as there was a burial ground already existing.

Considering the facts and circumstances of the case and as there is already a burial ground existing in the private land, in order to make it a public land, the respondents are directed to initiate the land acquisition proceedings. Thus, I see no reason to interfere with the land acquisition proceedings.

The Writ Petition is dismissed. However, the respondents are directed to complete the land acquisition proceedings including passing an award within a period of three months from the date of receipt of a copy of this order, in accordance with law. No costs.

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(ELIPE DHARMA RAO, J)

21st June 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Collector, Nizamabad District.
2. The Joint Collector, Nizamabad District.
3. The Land Acquisition Officer-cum-Revenue Divisional Officer, Kama Reddy District, Nizamabad.
4. Two CCs to GP for Land Acquisition, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.